North Central Regional Transit District
Board Meeting
Friday, November 4, 2011

CALL TO ORDER:

A regular monthly meeting of the North Central Regional Transit District Board was called to order on the above date by Chair Rosemary Romero at 9:16 a.m. at the Buffalo Thunder Resort, Pojoaque, New Mexico.

1. **Pledge of Allegiance**

2. **Moment of Silence**

3. **Roll Call**

Roll call indicated the presence of a quorum as follows:

Members Present:	**Elected Members**	**Alternate Designees**
Los Alamos County	Councilor Michael Wismer	Ms. Anne Laurent
Taos County		Mr. Jacob Caldwell [T]
Santa Fé County		Commissioner Danny Mayfield
Rio Arriba County	Commissioner Barney Trujillo [later]	Mr. Tomás Campos [T]
Ohkay Owingeh		
Pojoaque Pueblo	Mr. Tim Vigil	
San Ildefonso Pueblo		Ms. Sandra Maes [T]
Santa Clara Pueblo		Ms. Mary Lou Quintana [T]
Tesuque Pueblo		Mr. Sammy Romero
City of Santa Fé	Councilor Rosemary Romero	Mr. Jon Bulthuis

City of Española	Councilor Robert J. Seeds	
Members Absent:	**Elected Members**	**Alternate Designees**
Los Alamos County		
Taos County	Commissioner Dan Barrone	
Rio Arriba County		
Santa Fé County	Commissioner Robert Anaya	
Pojoaque Pueblo		Councilman Cameron Martínez
San Ildefonso Pueblo	Councilman Raymond Martínez	
Ohkay Owingeh	1st Lt. Gov. Virgil Cata	Ms. Kateri Keevama
Santa Clara Pueblo	Sheriff John Shije	
Tesuque Pueblo	Governor Charles Dorame	
City of Santa Fé		
City of Española		Councilor Helen Kane-Salazar

Staff Members Present
Ms. Cynthia Halfar, Executive Assistant/HR Specialist
Ms. Kelly Muniz, Financial Manager
Mr. Anthony J. Mortillaro, Executive Director
Mr. Jack Valencia, Transit Project Manager
Mr. Peter Dwyer, Counsel for NCRTD
Ms. Annette Velarde, Public Information Officer
Mr. Ivan Guillen, Regional Operations Manager
Mr. Gus Martínez, Fleet Manager

Others Present
Councilor Geoff Rodgers, Los Alamos County
Ms. Ernestine Martínez, NMDOT
Ms. Marcy Eppler, NMDOT
Mr. David Harris, NMDOT [telephonically]
Mr. Greg White, NMDOT [telephonically]
Ms. Penny Ellis-Green, Santa Fé County [telephonically]
Ms. Judith Amer, City of Santa Fe
Ms. Whitney Jones, Rio Grande Sun
Ron Horsely, member of the public

4. Introductions

Those present introduced themselves. Chair Romero welcomed new Board member, Councilor Geoff Rodgers from Los Alamos. Councilor Rodgers had his son Jason with him and he was welcomed also.

5. **Approval of Agenda**

Councilor Wismer moved to approve the agenda as presented. Commissioner Mayfield seconded the motion and it passed by unanimous voice vote.

6. **Approval of Minutes for October 14, 2011**

Councilor Wismer moved to approve the minutes of October 14, 2011 as presented. Mr. Vigil seconded the motion and it passed by unanimous voice vote.

ACTION ITEMS FOR APPROVAL/DISCUSSION:

A. Approval of Resolution 2011-09: Adoption of the Adjusted NCRTD Pay Plan for FY 2012

Chair Romero introduced the resolution and indicated there were not many changes. Page 2 was the recommendation.

Mr. Mortillaro reminded the Board that the pay plan that the Board adopted originally had a 3% raise step and the Board approved in August a 1.5% spread to stay on the step methodology so there would be 21 steps.

There were no questions about the resolution.

Mr. Vigil moved to approve Resolution 2011-09. Chair Romero seconded the motion.

Councilor Seeds noted that the Board seemed to always talk about salaries at each meeting so they needed to get this done so it didn't need to be brought up at more meetings.

Mr. Mortillaro agreed. He explained that this action was just to align the steps with the Board's action in August. In January the Board would discuss the financial strategy and consider a recommendation to the Board on the long term financial plan which would be undertaken by a task force.

Chair Romero named those who were on the long range task force that included the new City of Santa Fé Finance Director and the Los Alamos Finance Director.

Commissioner Mayfield asked for clarification whether staff members had to have a probation period.

Mr. Mortillaro explained that this resolution dealt only with a pay for performance plan. In it, unless an employee had been rated, he or she would not get an automatic step increase. It was an annual evaluation that occurred.

The motion to approve Resolution 2011-09 passed by unanimous voice vote.

B. Approval of Resolution 2011-10: Adoption of NCRTD Financial Policies

Chair Romero clarified that the Finance Committee had continued to refine these policies.

Mr. Mortillaro explained that in July 2011 he brought to the Board the draft of the financial policies. During the discussion a provision came up for Tribal grants and it was discussed in the Tribal Subcommittee and this would include their language on page 3 of 22 in the attachment that incorporated a change and page 5 that reflected the Tribal transit grant revisions in the policies.

Mr. Vigil had no comment on it but invited other tribal members to comment.

Mr. Mortillaro said those were the only changes made. He added that on page 4 there was a placeholder for the allocation methodology that the subcommittee was working on. When they finished, an amendment for the financial policy for allocations would be brought to the Board to consider incorporating that into the policy.

Councilor Wismer clarified that the Board had the allocation set for this year set (the Los Alamos County Plan) so a new methodology would happen for the future. Mr. Mortillaro agreed.

Councilor Wismer moved to approve Resolution 2011-10 as presented. Mr. Vigil seconded the motion and it passed by unanimous voice vote.

C. Authorization for the Executive Director to Purchase and Expend Funds from the State of Good Repair Grant

Mr. Mortillaro reminded members that the Board had approved permission to spend up to $100,000 as a policy.

Commissioner Mayfield asked if there was any way to negotiate with an RFP.

Mr. Valencia explained how their participation in the consortium enabled the agency to maximize their costs for purchase to achieve the lowest prices. The agency had been able to maximize the efforts of NMDOT and the consortium or take advantage of other FTA approved agreements with other states with already approved price agreements. That was how they had saved money and been able to acquire federally approved equipment.

Chair Romero added that because the NCRTD was relatively small, we have to use other agreements for price breaks.

Commissioner Mayfield understood and asked how many vendors they had for vehicles.

Mr. Martínez said they had three.

Commissioner Mayfield asked which one was the cheapest.

Mr. Martínez said it depended on what they were looking at.

Commissioner Mayfield asked how they knew what the best price was if they didn't go out for an RFP.

Mr. Valencia said it is like going to a luncheon where you have limited choices but with the national coalition they got to choose all options and could find the best arrangement in the country. That was the kind of flexibility attained in this consortium. By having the ability to choose from all, they had been able to maximize efficiencies and cost.

Chair Romero asked Mr. Bulthuis about the Santa Fé Trails policy.

Mr. Bulthuis said they used an RFP but it was a case-by-case basis.

Councilor Seeds commented that in a state price agreement contract it didn't matter what amount you bought - it was the same price.

Mr. Valencia said some of the agreements had a limited amount whereas this coalition didn't have the limit.

Councilor Seeds said with the financial crisis in the state they needed to stay within the limits.

Mr. Valencia said they could save thousands of dollars per bus with this coalition and he could demonstrate it to the Board.

Councilor Seeds said he needed to understand that so he could justify it.

Mr. Mortillaro said they could go out for RFP to find the best arrangement but this allowed further savings.

Commissioner Mayfield asked when the grant would expire.

Ms. Ernestine Martínez said it would expire in 2012.

Mr. Mortillaro clarified that these were prior actions. They ordered the replacement vehicles back in February 2011.

Mr. Valencia said it takes 100-180 days for the bus to be manufactured and that was why there was a lag in getting them into service.

Mr. Mortillaro said when they got authorization from the Board to apply for the grant it was also authorization to spend those funds. That wasn't clear when they got the authorization to apply. The approval to expend should have been done in February.

Councilor Seeds liked that and asked that it be done in the future.

Councilor Seeds moved to approve the request as presented. Chair Romero seconded the motion.

Ms. Amer asked what the request was specifically.

Mr. Mortillaro clarified that the bylaws said any expenditure over $100,000 needed board approval. On the second page in the documentation each of the two vehicles were below $100,000 but the invoice lumped them together and he didn't think it was wise to split that invoice on his own in order to not have to get board approval.

The motion to approve the request passed by majority voice vote with all members voting yes except Commissioner Mayfield who voted against.

Commissioner Trujillo arrived at this time.

Ms. Quintana was on the bridge.

D. Approval of Resolution 2011-11: NCRTD Vehicle Disposal

Mr. Gus Martínez said they received a notice from the Good Repair Grant that specified what needed to be done in replacement of vehicles regarding disposal of vehicles being replaced. He did some research and there was a web based public auction available in New Mexico with twenty some participants and it was specifically to dispose of federally funded vehicles in public auction.

Councilor Wismer moved to approve Resolution 2011-11 as presented. Commissioner Mayfield seconded the motion and it passed by unanimous voice vote.

E. Approval of Resolution 2011-12: Adoption of the Updated NCRTD Drug and Alcohol Policy

Mr. Mortillaro said the agency's drug and alcohol policy followed the Federal Register federal policy requirements.

Mr. Guillen explained that there had been some recent changes to the federal regulations and procedures and the policy attached was amended to follow those requirements. He pointed them out to the Board. The main change was on page 5 requiring observed testing by a person of the same gender when falsification of a UA was suspected. They also changed the cut off levels on drug use. The third change regarded screening. The Federal Register had the required changes listed.

Chair Romero noted that the NCRTD policy was more stringent that FTA requirements.

Councilor Seeds appreciated those regulations. He asked if there was any way to add more drugs to the list.

Mr. Dwyer said they could but cautioned that New Mexico had a strong civil liberty provision so whereas they could add it to the policy there was a states' rights issue to consider. Ephedrine was exempted by the federal policy, for instance.

Mr. Mortillaro said even with a prescription they could not drive a vehicle.

Councilor Seeds asked that staff look into that further. There were many people who relied on the ability of our driver to keep them safe.

Chair Romero said they could ask the task force to look at it further.

Mr. Vigil stated that Pojoaque Pueblo had a zero tolerance policy as did many other pueblos. He asked that Mr. Mortillaro talk with some of the pueblos about it.

Mr. Dwyer said that could be done but rather than making it the policy now, the feds reviewed this annually and might change it.

Councilor Seeds felt that doing it annually and not take forever to change it was important.

Chair Romero said they could do an addendum to it.

Councilor Seeds moved to approve Resolution 2011-12 as presented. Commissioner Trujillo seconded the motion.

Councilor Seeds requested that Mr. Vigil provide a copy of the Pojoaque Pueblo's policy and any others for the Board to review.

The motion to approve the resolution passed by unanimous voice vote.

F. Approval of the NCRTD Service Policy for Non-Profit Organizations

Mr. Mortillaro clarified that this policy was only for discussion and not for approval today. The Finance Committee discussed it at their meeting and the policy had a reduction in regular charter rates for a nonprofit entity. They looked at a 20% reduction and the Finance Committee suggested discussing it here for further elaboration.

One issue that arose was about the anti-donation clause and the other question was if the agency should remove the charges that accumulated when bus was sitting there waiting. His feeling was that doing so would be an appropriate reduction as well.

He also noted that once they occupied the new transit facility, it was a federally funded facility and federal regulations for charter service were very different than what the agency could do now. They couldn't use federal funds for this.

So the recommendation at this point was to revisit the whole charter policy in light of the new fed regulations that would apply once they occupied that building.

Mr. Dwyer said regarding the anti-donation clause that with a 501c3 organization, the prohibition didn't apply to federally funded activities. There was a two-tiered problem. Under state laws, you have to pass muster with anti-donation clause but at federal you don't. It was a complex situation.

Mr. Guillen said to date they had three requests for charters and none were from nonprofit

organizations.

Mr. Dwyer recalled when he was city attorney for Santa Fé there were vehicles given to nonprofit. He didn't think it was a violation of the clause but needed to make sure it was okay for NMDOT also.

Councilor Wismer asked if this would be brought back for action.

Mr. Mortillaro agreed - probably at the February meeting.

Councilor Wismer moved to table this item with time for analysis and that it be brought back no later than six months. Commissioner Trujillo seconded the motion.

Councilor Seeds asked for clarification in reference to use of the federally funded building.

Mr. Mortillaro said some of the vehicles were purchased with GRT funds and were not part of federal funding. But a number had been purchased with federal dollars.

The motion passed by majority voice vote with all voting in favor except Councilor Seeds who voted against.

G. Approval of Resolution 2011-13: The NCRTD Records Retention Policy

Mr. Mortillaro said they currently didn't have a records retention policy. This resolution recommended a schedule for retention.

Ms. Velarde briefly reviewed the policy proposed. Records included all documents including emails, etc. She went through the schedule. Real estate documents would be held for 25 years. Email was subject to IPRA - based on particular categories.

Mr. Dwyer felt the policy in general was okay but specifics were always subject to further discussion.

Councilor Seeds asked about taped phone calls.

Mr. Dwyer said that was very difficult, challenging and not simple. He reviewed the policy.

Mr. Vigil said he and Governor Dorame had a discussion with the AG office. Although he came across with his interpretation Mr. Vigil and Governor Dorame agreed with each other and disagreed with the AG about email. He explained that particularly when you are on a tribal computer the product was the property of the tribe and not the NCRTD and they would stick by that. With subpoenas, depending on the subject, the tribe might not honor the subpoena.

Mr. Dwyer agreed there was a discussion on the sovereignty issue. Under the New Mexico Records Act the NCRTD was in one category and the tribes in another. He said the agency would just have to do it on our end with our records and retain them for a certain period of time.

Councilor Seeds wanted to make sure everyone was aware of the tribal policy.

After further discussion, Chair Romero listed the options as either to approve the policy as proposed; secondly to reject the resolution or third, to table for further changes.

Mr. Vigil noted that insurance companies had in their policies "subject to tribal sovereignty rights."

Mr. Dwyer said they could add that to the policy on page 23.

Councilor Seeds moved to approve the resolution with the policy amended on page 23, first sentence to add "subject to tribal sovereignty rights." Councilor Wismer seconded the motion and it passed by unanimous voice vote.

H. Approval of the NCRTD Travel Policy

Mr. Mortillaro said this policy was to address reimbursable travel guidelines.

Chair Romero asked for comment.

Councilor Seeds said everyone wanted to ensure transparency because of the lack of money today. He thought there should be a week's notice on intent to use funds for travel and that anything that called for expenditure of money should be approved by the board.

Mr. Mortillaro pointed out that normally the CEO or City Manager would approve reimbursement for staff travel expenses. Any travel of a city councilor or commissioner would be approved by the board. That was what was embodied in this document.

Chair Romero summarized that any travel by board members or the Executive director would come to the Board for approval of reimbursements. Mr. Mortillaro's contract would cover the rest of staff.

Councilor Wismer understood Councilor Seeds' concern was to minimize travel costs to an absolute minimum and only when necessary for the operation of NCRTD. He proposed a statement that such travel must be absolutely necessary.

Commissioner Mayfield asked if they could list travel points that would be approved as a matter of course or with a P.O.

Mr. Mortillaro agreed but commented that he paid his travel agency 10%.

The Board briefly discussed sharing a vehicle on trips. Ms. Amer felt a small van might be preferable to having employees drive their own cars and suggested adding "when available" to the policy to give them a choice.

Chair Romero said reimbursement was restricted to district business and staff were encouraged to share when practical.

Ms. Muniz said very few people had requested reimbursement and they submitted odometer readings

when they made the request.

Councilor Wismer excused himself from the meeting at 11:00.

It was noted that the state had a per diem policy but the RTD did not have that in the policy.

Chair Romero noted the changes in the policy that she had noted.

Commissioner Mayfield asked about responsibility for paying speeding tickets in agency vehicles.

Mr. Mortillaro said that was a personal responsibility.

Chair Romero moved to approve the policy with those changes. Mr. Vigil seconded the motion and it passed by majority voice vote with all voting in favor except Councilor Seeds who voted against.

I. Presentation and Acceptance of the FY 2010 Audit

Chair Romero introduced Mr. Farley Vener who presented the 2010 Audit Summary. He apologized that he only had 20 minutes and offered to come back if needed.

Councilor Seeds asked if some findings had been resolved.

Chair Romero said there were a few we needed to focus on soon. Those were top on our list.

Mr. Vener said board members had his contact information and that needed to go through the board. He commended the board for having done a lot of hard work and said many findings would go away in the next audit.

Chair Romero applauded Ms. Muniz for her great job in getting things where they needed to be. She felt they were making good progress but not without blood, sweat and tears. There was still quite a bit of work to do.

Mr. Vener announced that the 2010 audit had been approved by the State Auditor and was released to the public.

Ms. Muniz said it was on the website.

Chair Romero moved to approve the audit report. Ms. Laurent seconded the motion and it passed by unanimous voice vote.

DISCUSSION ITEMS:

J. Update of the Jim West Regional Transit Center

Mr. Davenport provided the update with the latest information on the building. He read the list to the board. They now had modifications based upon the secondary soil report. The contractor was trying to implement the design. Presently they could not compact the base course on top of that soil.

The parking area modifications cost $176,000 and the bus terminal area cost $102,000. He quoted the new total prices to the board including the construction of Silkey Way.

Currently, the good news was that they were exploring some alternatives that might solve the problem and cost less money. There were a lot of complications.

His recommendation was that the board allow him to continue that exploration. If the alternatives didn't work out, the Board would understand the type of design coming their way. One possibility was taking out a service contract but in any case, the soils situation was not good.

Councilor Seeds reminded them that the city was a swamp and had been built up a little over time. It was ridiculous to assume they would eliminate those problems on the property. The center was higher than Walmart but the water table was high. They needed to do something before the winter months.

Chair Romero noted that Mr. Romero had expertise in this area and asked for his opinion.

Mr. Romero said there was a composition of several layers that was best to do. He thought they could get compaction of 80% with it. He advised not to use a French drain with pumps that would need to be maintained constantly. Eventually they would require replacement. They had to bite the bullet to find the design that best works. The best resolution was to put in more compaction material. They would always have that flotation issue.

Mr. Davenport said if they could accept the idea that they wouldn't solve the water table problem then they could go with a less extensive design and maintain it but at less cost.

Mr. Romero agreed. Looking to the engineering part, they could make the expansion joints that would work. They needed to have drainage away from the parking area.

K. Final Budget for FY 2011

Ms. Muniz summarized the final budget for FY 2011. $10.3 million was the approved budget and they received more revenue that was approved.

She went over the categories and provided the percentages spent in administration, operating and capital which overall was 86.4% of budget.

Ending cash reserves totaled $2.7 million from a beginning balance of $1.47 million. This was mostly due to extra GRT revenue.

Commissioner Mayfield asked about penalties and interest.

Ms. Muniz explained that was a new line item she created when she first came in. There were some

late payments for taxes and unemployment and IRS. She wanted to track it separately and was trying to play catch up.

Chair Romero said they were complying with the government standards with their new accounting software which was called Sage MIP.

Ms. Muniz said the software was specific to grant tracking.

Chair Romero added that they only had one person doing it before and now had the resources needed to do the job properly. This was a newer updated version for the board.

L. Audit Results for FY 2010 and Status of FY 2011 Audit

Ms. Muniz said Mr. Vener went over it with her. The Field Work was done and they would soon set the date for the exit conference and submit it to the State Auditor.

M. Budget and Expenditure Report for FY 2012

Ms. Muniz said they were just now receiving July and August GRT. July was shown but not August.

They had 8% revenues and spent 22% and were 25% into the budget year.

Mr. Mortillaro added that they were current with reserve requirements that were set by board policy.

N. Finance/Regional Coordination & Consolidation Subcommittee Report

Mr. Mortillaro said the report from August was in the packet. There was a lot of their activity shown in the actions they considered.

O. Executive Report for August, September and October 2011 and Comments from the Executive Director

Mr. Mortillaro said that report was in the packet. He provided copies of the 2010 annual report to the Board. He thanked Ms. Velarde for the report.

Mr. Mortillaro commented on the Rail Runner. Currently they had an agreement with Rail Metro and the RTD distributed 50% of the Santa Fé GRT to the Rail Runner. They had been asked to explore a seat on the Rio Metro Board. When they entered the agreement they specifically decided not to seek membership on the board but now he would like to see if they could get a seat on it. Since the RTD was giving them almost $2 million they should have some representation there.

Mr. Dwyer recalled that decision to not have a seat was made on the basis of avoiding liability. He believed they didn't need to have a seat for that reason.

Chair Romero said the City of Santa Fé wanted to be at that table. The MPO has a resolution to do so. We want to work for opportunities.

Mr. Mortillaro said he sat on the long range task force for Rail Runner. The services to Santa Fé County and City and to some degree the NCRTD increased tourism and connectivity so it did have an impact on the RTD.

Commissioner Mayfield asked if there could be a resolution at the next meeting.

Mr. Mortillaro agreed that would be appropriate.

Chair Romero encouraged the Board to keep the conversation going and maybe have a resolution next time.

PUBLIC COMMENT

Mr. Ron Horsley presented a petition for adding south Ojo Caliente to the bus route. His contact information was on the petition.

Chair Romero thanked him for his interest and the RTD would consider the petition.

MATTERS FROM THE BOARD

There were no matters from the Board.

MISCELLANEOUS

There were no miscellaneous items.

NEXT MEETING

The next meeting was scheduled for December 2, 2011 at a place to be determined.

Councilor Seeds favored moving the meeting to 1 p.m. due to wintertime conditions.

Chair Romero agreed that safety was an important consideration but hoped they could meet earlier than 1:00 since it was tough to go to back at 4 or 5 pm with Los Alamos traffic.

Councilor Seeds disagreed.

Chair Romero polled the other members and they were open to the 1:00 time but really had no preferences.

Chair Romero agreed to 1:00 on December 2.

Commissioner Mayfield reported that he spoke with the Governor of Nambe Pueblo for interest in NCRTD. He felt specifically on highway 76 they needed to make the stops more accessible to people.

Mr. Romero said their Lt Governor, Mr. Arnold Garcia was a good contact.

Councilor Seeds asked about the additional route request.

Mr. Mortillaro said it needed to come back to the Board.

Mr. Mortillaro noted that ridership was at an all time high again this month.

ADJOURNMENT

The meeting was adjourned at 12:05 p.m.

Approved by:

Rosemary Romero

Rosemary Romero, Chair

Attest:

Michael Wismer

Michael Wismer, Secretary

Submitted by:

Carl Boaz

Carl Boaz, Stenographer